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OFFICE OF PETITIONS

In re Application of :
John C. Zarganis :
Application No. 10/789,176 :
Filed: February 26, 2004 :
Attorney Docket No. 020843-002710US :
: DECISION GRANTING
: PETITION

This is a decision on the petition filed July 19, 2004, requesting that the above-identified application retain its filing date of February 26, 2004.

The petition is **GRANTED**.

The application was filed on February 26, 2004. However, the Office of Initial Patent Examination mailed a "Notice of Omitted Items" on May 20, 2004 stating that Figures 3 & 4 described in the specification appear(s) to have been omitted.

In response, applicant filed the present petition and a copy of the applicant's postcard receipt acknowledging receipt of 10 sheets of drawings, which included Figures 3 & 4 on February 26, 2004 in the United States Patent and Trademark Office (USPTO). Additionally, applicants resubmitted 10 sheets of drawings, which include Figures 3 & 4 with the instant petition.

MPEP 503 in pertinent part states:

"A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Upon review of the record, Figures 3&4, deposited on February 26, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 26, 2004, which were subsequently misplaced in the USPTO. Therefore, the application, including Figures 3 & 4, was complete on filing and will be granted a filing date of February 26, 2004.

Since the Office erred by mailing the Notice of Omitted Items, the petition fee of \$130 will be credited to petitioner's deposit account in due course.

This application file is being referred to the Office of Initial Patent Examination Division for further processing with a filing date of February 26, 2004, with an indication on the filing receipt that 10 sheets of drawings were present on filing and using the 10 sheets of drawings, which include Figures 3 & 4 supplied with the instant petition.

Telephone inquiries concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.



Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy